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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 50277-2895	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] On _4/16/07_ Signature _Annette Valdivia_ Typed or printed name Annette Valdivia	Application Number 10/051,274	Filed January 22, 2002
	First Named Inventor Sunil Kunisetty	
	Art Unit 2192	Examiner Chrystine Pham

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
   (Form PTO/SB/96)

☒ attorney or agent of record.
   Registration number _____58,764_____.

☐ attorney or agent acting under 37 CFR 1.34.
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Signature

Joseph M. Olsen
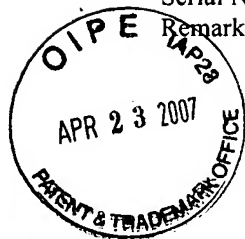Typed or printed name

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

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REMARKS/ARGUMENTS

As will be seen from the discussion below, the Examiner's rejection of claims 1-2, 5, 6, 9,

11, 15-17, 19-21, and 23-34 under 35 U.S.C. § 103(a) as being allegedly unpatentable over

Agrawal in view of Claussen do not establish a *prima facie* case of obviousness. There are clear

errors of fact and of law in the Examiner's rejections that make the rejection improper and

without basis.

Claim 1 is Patentable over Agrawal

Agrawal describes a system that analyzes web pages in order to find blocks of codes

within the pages that are cacheable. For example, each of the blocks A, B, C, and D may be

generated by code present in the underlying script of the document . . . The code that generates . .

. A is necessarily distinct from the code in the script that generates. . . . B." (See Agrawal, ¶ 33).

Basically, Agrawal describes analyzing a web page to identify independent blocks of code that

can be stored until the associated web page is accessed. Then, upon access, the Agrawal system

inserts the cached blocks of code into the accessed web page. This is different from "generating

a servlet class for the page based on the set of code instructions . . . [and] loading a copy of the

markup text into shared memory"" as recited in Claim 1.

First, the markup text being loaded into shared memory is not necessarily information

that is static to the web page (e.g., HTML text). The loading markup text step refers to a new

way of handling and sharing Java literal strings. (See Specification, ¶ 10-12). Put another way,

the loading step refers to static information that typically would be loaded into the servlet classes

themselves. However, here, instead of storing that information as literal strings in the servlet

class, the static information is loaded into a shared location available to multiple instances of the

servlet class. This is not taught be Agrawal. Each block of code in Agrawal is stored separately

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from the other blocks of code. However, each instance of an Agrawal block of code does not access shared information unique to instances of that block of code.

Claussen, similarly, does not teach "generating a servlet class for the page based on the set of code instructions . . . [and] loading a copy of the markup text into shared memory"" as recited in Claim 1. The Examiner states that "Claussen discloses a system and method for serving dynamically generated servlet [class] using JSP to requesting clients." Basically, the Claussen reference describes the typical mechanisms used to generate servlet classes. It also describes a document object model tree that can identify custom tags. It does not, however, describe caching static markup portions of the servlet classes so that multiple instances of the same class can access the shared information, thereby, reducing the footprint of each servlet class. For at least this reason, Claim 1 is patentable over Agrawal in view of Claussen.

Moreover, even if the alleged Agrawal-Claussen combination does teach all of the limitations of Claim 1. There is no motivation to combine the two references. The Examiner states that "Agrawal and Claussen are analogous art because they are both directed to dynamically generating scripted pages. It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Claussen into that of Agrawal for the inclusion of a servlet class. And the motivation for doing so would have been to allow error-handling code to be included in the servlet class for improved debugging and maintenance of the requested web pages." This motivation to combine does not make sense in light of the nature of Agrawal. Agrawal was designed to improve web server performance and limit the amount of processing the web server has to do. Adding additional debugging script to Agrawal would defeat many of the performance enhancements Agrawal is designed to accomplish.

Furthermore, as admitted to by the Examiner, Agrawal does not teach dynamically generated servlets. Accordingly, there is no need for Agrawal to incorporate the loading of static markup text associated with dynamically generated servlet classes into it.

For at least these reasons, the rejection of Claim 1 under 35 U.S.C. § 103(a) should be withdrawn.

Dependent Claims 2, 9, 11, 15-17, 19-21, and 23-34

Dependent Claims 2, 9 and 23-25 depend from Claim 1, and hence, incorporate all of the limitations of Claim 1. These claims also recite further advantageous aspects of the invention. The Applicants submit that Claims 2, 9, and 10 are patentable over the alleged Agrawal-Claussen combination for at least the same reasons as those given above in connection with Claim 1.

Independent Claim 5 recites a similar element to the one recited in Claim 1. For at least the same reasons as set forth above, Claim 5 is also patentable over the alleged Agrawal-Friesen combination. Dependent Claims 6, 11, and 26-28 depend from Claim 5, and hence, incorporate all of the limitations of Claim 5. These claims also recite further advantageous aspects of the invention. The Applicants submit that these claims are patentable over the alleged Agrawal-Claussen combination for at least the same reasons as those given above in connection with Claim 5.

The other claims (Claims 15-17, 19-21, and 29-34) are computer-readable storage medium claims which contain limitations reasonably analogous to those described above. The Applicants submit that these claims are patentable over the alleged Agrawal-Claussen combination for at least the same reasons as given above.

CONCLUSION

For at least the reasons above, the Applicants respectfully request that the rejections of all the pending claims be reversed.